

IN THE SUPREME COURT OF VICTORIA
COMMERCIAL COURT
GROUP PROCEEDINGS

S ECI 2022 05424

BETWEEN:

ANNE-MAREE JOHNSTON

Plaintiff

- and -

HYUNDAI MOTOR COMPANY AUSTRALIA PTY LIMITED
(ACN 008 995 588)

Defendant

ORDER

JUDGE: The Honourable Justice Nichols

DATE MADE: 7 September 2026

ORIGINATING PROCESS: Originating Process filed on 22 December 2022

HOW OBTAINED: At the directions hearing on 7 September 2026

ATTENDANCE: Mr P Strickland of counsel for the plaintiff
Mr D Thomas SC with Ms M Aguinaldo of counsel for the
defendant

OTHER MATTERS:

- A. Pursuant to Order 1 of the Orders made on 13 April 2023, this proceeding is being case managed together with the proceeding *Moroney v Kia Australia Pty Ltd* (S ECI 2023 00959) (**Moroney Proceeding**).
- B. This Order is authenticated by the Judge of the Court pursuant to Rule 60.02(1)(b) of the *Supreme Court (General Civil Procedure) Rules 2025* (Vic) ('Rules').

THE COURT ORDERS THAT:

Opt Out and Notice to Group Members

1. By **6 November 2026**, the parties confer as to proposed orders regarding:
 - a) opt out and registration;
 - b) the procedure for opt out and registration including any information to be sought from Group Members through any registration process and identifying an appropriate notice distribution agent;
 - c) soft class closure;



- d) the form and content of any notice to Group Members; and
- e) consequent timing of any mediation proposed to occur earlier than that provided for at order 7 below,

(together, the **Conferral Matters**).

- 2. If agreement is reached between the parties on the Conferral Matters, then by **11 November 2026**, the parties provide to the Associates to her Honour proposed consent orders addressing the agreed Conferral Matters, including any agreed draft notice.
- 3. If agreement is not reached between the parties on one or more of the Conferral Matters, then:
 - a) by **11 November 2026**, the moving party file and serve an interlocutory application seeking orders concerning the disputed Conferral Matters, together with supporting evidence, and any submissions of no more than 10 pages;
 - b) by **18 November 2026**, the opposing party file and serve any evidence, and submissions of no more than 10 pages, in response with respect to the application; and
 - c) by **25 November 2026**, the moving party file and serve any submissions of no more than 3 pages in reply with respect to the application.
- 4. By **27 November 2026**, the moving party file and serve an electronic application book in respect of any application made pursuant to order 3.
- 5. The proceeding be listed for the hearing of any application made pursuant to order 3 on **4 December 2026**.

Expert evidence

- 6. The expert conferrals referred to in Order 20 of the Orders of the Honourable Justice Nichols made 16 March 2026 (**March Orders**) are to be conducted as follows:
 - a) Each of the parties' expert witnesses who have provided an expert report on the same subject matter are to confer with each other for the purpose of preparing a joint report (**Joint Report**) as required by Order 20 of the March Orders (each conferral being a Conclave).
 - b) Each Conclave is to be conducted in the absence of the parties and their employees or agents (including legal representatives).
 - c) Each Conclave is to be facilitated by an independent facilitator who is:
 - i. agreed by the parties and appointed by the Court; or
 - ii. failing agreement, by the Court selecting from a shortlist of candidates proposed by the parties.
 - d) By 1 September 2027 the parties are to notify the Court of their proposed agreed facilitator(s) and provide proposed orders for the appointment of the facilitator(s). If the parties are unable to agree, by 1 September 2027 they are to provide the Court with a list of three names of suitably qualified persons for each conclave with details of their relevant qualifications, and provide proposed orders for the appointment of the facilitator(s).
 - e) The Joint Reports:



- i. are to succinctly set out the matters in relation to which the experts agree and disagree, they are not to simply repeat or summarise the expert's existing reports;
 - ii. are to succinctly explain the reasons for any disagreement upon the real issues in dispute; and
 - iii. are intended to narrow the issues in dispute and explain the reasons for disagreements between the experts. They must reflect a genuine attempt by the experts to narrow the issues in dispute. They are not a medium through which the experts may ventilate new opinions not given in their existing reports. Any new matters may only be addressed if they are strictly necessary in order to explain the reasons for the disagreement between the experts.
- f) The Joint Reports are to be provided to the parties, and the Plaintiff is to file the Joint Reports, by **4.00pm on 30 September 2026**.

Mediation

- 7. The proceeding be referred to a mediator to be agreed between the parties, or in default of agreement to be appointed by the Court, such mediation to take place by **30 October 2027**.
- 8. Subject to the terms of this order, the plaintiff must, after consultation with all parties, deliver to the mediator a copy of this order, all pleadings (including requests for and further particulars) and a copy of any other necessary information, and take all steps necessary to ensure that the mediation commences as soon as practicable.
- 9. The mediation must be attended by those persons who have the ultimate responsibility for deciding whether to settle the dispute and the terms of any settlement and the lawyers who have ultimate responsibility to advise the parties in relation to the dispute and its settlement.
- 10. The mediator is to notify the Court of the status of the proceeding within 7 days following the completion of the mediation.

List of common questions

- 11. By **4:00pm on 5 November 2027**, the plaintiff is to serve a draft list of the common questions in dispute, together with any questions arising from the plaintiff's individual claim, to be determined at trial.
- 12. By **4:00pm on 19 November 2027**, the defendant is to serve their response to the plaintiff's draft list, identifying areas of agreement and disagreement.
- 13. By **4:00pm on 3 December 2027**, the parties are to confer so as to limit the questions in dispute.
- 14. By **4:00pm on 17 December 2027**, the plaintiff is to file an agreed draft list of the common questions in dispute and any questions arising from the plaintiff's individual claim to be determined at trial or, if agreement cannot be reached, a list highlighting the differences between the parties.

Chronology

- 15. By **4:00pm on 12 November 2027**, the plaintiff is to serve a draft neutrally expressed chronology of the relevant facts and events.
- 16. By **4:00pm on 26 November 2027**, the defendant is to send a neutrally expressed list of relevant facts and events to be included in the proposed chronology and both parties must



consult and agree (where possible) upon the contents of the chronology by 10 December 2027.

17. By **4:00pm on 17 December 2027**, the plaintiff is to file and serve the finalised neutrally expressed chronology, which must indicate if any fact included is not agreed and by which party. The plaintiff must also provide the judge with an electronic copy of the chronology in fully searchable portable document format.

Agreed statement of facts

18. By **4:00pm on 12 November 2027**, the plaintiff is to serve a draft statement of facts.
19. By **4:00pm on 10 December 2027**, the defendant is to serve any proposed amendments to the draft statement of facts served by the plaintiff.
20. By **4:00pm on 17 December 2027**, the plaintiff is to file and serve any agreed statement of facts.

Trial plan

21. By **4:00pm on 17 December 2027**, the plaintiff is to serve a draft trial plan.
22. By **4:00pm on 7 January 2028**, the defendant is to serve any proposed amendments to the draft trial plan served by the plaintiff.
23. By **4:00pm on 14 January 2028**, the parties are to file and serve an agreed trial plan. The trial plan must allow time for any substantive arguments about the admissibility of evidence during the trial; and for the preparation of written submissions, which must be provided to the Court at least 3 business days in advance of the commencement of oral closing submissions.

Court Book

24. The plaintiff is to prepare an electronic Court Book containing the following documents:
 - a) the current pleadings including requests for particulars and particulars; and
 - b) all documents, in date order, which any party proposes to tender in evidence in chief or to be referred to in cross-examination.
25. The electronic form of the Court Book must be a single PDF document that is: bookmarked, fully text-searchable and consecutively paginated, with each page numbered to correspond with the display numbers in the PDF.
26. By **4:00pm on 17 December 2027**, the plaintiff is to serve on the defendant a draft index for the proposed Court Book.
27. By **4:00pm on 14 January 2028**, the defendant must send a list of documents to be included or documents to be excluded from the proposed Court Book and the parties must consult as to and agree upon the contents of the Court Book.
28. By **4:00pm on 21 January 2028**, the plaintiff is to serve on the defendant and file for the use of the Judge the index to the Court Book in electronic form, together with an electronic copy of the Court Book.

Opening submissions

29. By **4:00pm on 25 January 2028**, the plaintiffs are to file and serve a written outline of opening submissions.
30. By **4:00pm on 8 February 2028**, the defendants are to file and serve a written outline of opening submissions.



Trial date

31. The proceeding be listed for a trial of the common issues at **10:30am on 14 February 2028**, with a 4-day sitting week on an estimate of 5 weeks' duration.
29. Pursuant to rule 9.12 of the *Supreme Court (General Civil Procedure) Rules 2025* (Vic), the Johnston Proceeding and the Moroney Proceeding are to remain as separate proceedings but are to be tried together and evidence in one proceeding is to be evidence in the other proceeding, subject to relevance.

DATE AUTHENTICATED: 11 September 2026



THE HONOURABLE JUSTICE NICHOLS

